

REMARKS

Status of case

Claims 1-50 are currently pending in this case. Claims 1, 27, 35, 40, 41, 47, and 49 are independent claims.

Rejections under 35 U.S.C. §103

Claims 1-41 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,343,277 (hereinafter “Gaus”) in view of U.S. Patent No. 6,047,274 (hereinafter “Johnson”), “CellNet Data Systems” web site content (“CellNet”), and Thomas, Samuel C., “An East Coast View: The Right Price for PJM,” *Public Utilities Fortnightly*, v135n18, pg. 40-44, Oct. 1, 1997 (“the LMP reference”).

The Office Action states that the Gaus reference teaches calculating a single clearing price for an energy market trade. The Office Action acknowledges that the Gaus reference does not teach details on meter reading and billing processes, and utilization of real-time data collected on predetermined intervals, relying on the Johnson and CellNet references, respectively for the teachings. The Office Action further acknowledges that the Gaus reference does not teach calculating a clearing price after dispatch of energy services, and thus relies on the LMP reference.

Applicants respectfully contend that the cited references do not render the claims obvious. The Office Action acknowledges that numerous limitations are not taught in the Gaus reference. For example, the Office Action acknowledges that the Gaus reference fails to teach that the calculation of the clearing price is performed after dispatch of energy services, and relies on the LMP reference for this teaching. This reliance is misplaced.

The LMP reference teaches a conventional clearance price system, such as Gaus, can be modified to account for congestion in transmission system. To that end, the LMP reference

teaches that a market clearing price is first calculated prior to dispatch of energy, similar to Gaus. The LMP reference further teaches that to account for congestion in the transmission system, the market clearance price is adjusted for the cost of transmission of the energy to the end user, to calculate the Location Marginal Price. The cost of transmission of energy (termed a “congestion cost”) is higher where there is higher congestion of energy services and lower where there is lower congestion. Thus, in an area of high congestion, the market clearing price is adjusted by the cost of transmission so that its Location Marginal Price is higher than in an area of low congestion.

Applicants contend that the LMP reference, either alone or in combination with the Gaus reference, does not teach that the market clearing price that is the same for all consumers regardless of location is calculated after dispatch. See claim 1 (“electronically calculating a clearing price for the dispatched energy services regardless of location in the energy system for the predetermined time interval, the calculating of the clearing price being performed after dispatching the energy services in order to account for the real time condition”); claim 27 (“the settlement component determines an equal energy services clearing price regardless of location in the power system during the predetermined time interval based on the bids from the providers and the consumers submitted for the predetermined period and based on the real time condition for the predetermined time interval, the determining of the equal energy services clearing price being performed after dispatching the energy services in order to account for the real time condition”); claim 35 (“settling the market comprises calculating a clearing price for energy services regardless of location in the energy system for the predetermined time interval, the calculating of the clearing price being performed after dispatching the energy services in order to account for the real time condition”); claim 40 (“computer executable code for calculating a

clearing price for the energy services regardless of location in the energy system for the predetermined time interval, the calculating of the clearing price being performed after dispatching the energy services in order to account for the real time condition"); claim 41 ("computer executable code for calculating a clearing price for the energy services regardless of location in the energy system for the predetermined time interval, the calculating of the clearing price being performed after dispatching the energy services in order to account for the real time condition").

As acknowledged by the Office Action, the Gaus reference teaches that the calculation of the market clearing price is performed prior to dispatch. Similarly, the LMP reference teaches the market clearing price that is the same for all consumers is calculated prior to dispatch. The LMP reference teaches that its system is to be integrated with traditional systems (*e.g.*, the traditional system in Gaus that calculates the market clearing price prior to dispatch). Thus, the LMP reference teaches that only the congestion charge (and the final price to the consumer that varies based on location) is calculated after dispatch and not the market clearing price that is the same for consumers regardless of location.

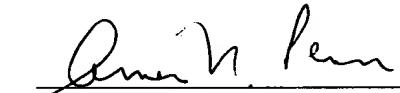
Further, none of the cited reference teaches that the real time condition is based on data regarding the generating units. See claims 42-50. For example, the LMP reference teaches that the congestion cost is based on data related to the transmission lines. The LMP reference does not discuss, or even contemplate the generating units in its congestion charge. Therefore, any real time condition related to the generating units, regardless of the type of clearance price calculated, is patentable over the cited art.

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CONCLUSION

Applicants submit claims 1-50 for reconsideration. Should there be any remaining formalities, the Examiner is invited to contact the undersigned attorneys for the Applicants via telephone if such communication would expedite this application.

Respectfully submitted,



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